

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JARED ANDREW MARTIN,  
  
Plaintiff,  
  
v.  
  
D. CASTILLO,  
  
Defendant.

No. 1:22-cv-00002-DAD-SAB (PC)

ORDER DENYING PLAINTIFF'S MOTION  
TO DISQUALIFY MAGISTRATE JUDGE

(Doc. No. 32)

Plaintiff Jared Andrew Martin is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. On August 2, 2022, plaintiff filed a motion to disqualify the assigned magistrate judge. (Doc. No. 32.)

A party may seek recusal/disqualification of a judge based on bias or prejudice. Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding. The party's affidavit shall state the facts and the reasons for the belief that bias, or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case.

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1 It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.  
2 See 28 U.S.C. § 144.

3 The standard for recusal under 28 U.S.C. § 144 (“§ 144”) is “whether a reasonable person  
4 with knowledge of all the facts would conclude that the judge’s impartiality might reasonably be  
5 questioned.” *Mayes v. Leipziger*, 729 F.2d 605, 607 (9th Cir. 1984) (quoting *United States v.*  
6 *Nelson*, 718 F.2d 315, 321 (9th Cir. 1983)). To provide adequate grounds for recusal, the  
7 prejudice must result from an extrajudicial source. *Id.* “[J]udicial rulings alone almost never  
8 constitute a valid basis for a bias or partiality motion.” *Liteky v. United States*, 510 U.S. 540, 555  
9 (1994). Instead, the judicial rulings are a basis for appeal, not recusal. *Id.* (“In and of themselves  
10 . . . [judicial rulings] cannot possibly show reliance upon an extrajudicial source; and can only in  
11 the rarest circumstances evidence the degree of favoritism or antagonism required . . . when no  
12 extrajudicial source is involved. Almost invariably, they are proper grounds for appeal, not for  
13 recusal.”); *Leslie v. Grupo ICA*, 198 F.3d 1152, 1160 (9th Cir. 1999) (“Leslie’s allegations stem  
14 entirely from the district judge’s adverse rulings. That is not an adequate basis for recusal.”)  
15 (citations omitted). Further, § 144 expressly conditions relief upon the filing of a timely and  
16 legally sufficient affidavit. See 28 U.S.C. § 144. If the affidavit is legally insufficient, then  
17 recusal can be denied. See *United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 566 (9th  
18 Cir. 1995).


19 Here, plaintiff argues that the assigned magistrate judge has acted “as an advocate for  
20 corruption, abuse, torture behavior.” (Doc. No. 32 at 1.) Plaintiff has provided absolutely no  
21 evidence that would cause the undersigned any reason to believe that the magistrate judge was  
22 biased or prejudiced against plaintiff in any way. *Liteky v. United States*, 510 U.S. at 555  
23 (“judicial rulings alone almost never constitute a valid basis for a bias or partiality motion. In and  
24 of themselves (*i.e.*, apart from surrounding comments or accompanying opinion), they cannot  
25 possibly show reliance upon an extrajudicial source; and can only in the rarest circumstances  
26 evidence the degree of favoritism or antagonism required . . . when no extrajudicial source is  
27 involved.”).

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1                   Accordingly, plaintiff's motion to disqualify the assigned magistrate judge (Doc. No. 32)  
2 is denied.

3 IT IS SO ORDERED.

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5           Dated: August 5, 2022

  
UNITED STATES DISTRICT JUDGE